IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2489 OF 2007

Parubai P. Virkar ....Petitioner
V/s.
The State of Maharashtra & Ors. ....Respondents

Mr.R.K. Mendadkar, Ms.H.K. Mandlik and Mr.V.A. Madane for the Petitioner.

Mr.R.D. Rane, GP for Respondent Nos.1, 2 and 5.

CORAM : F.I. REBELLO &
R.M. SAVANT, JJ.
DATED : 10TH APRIL, 2007.

P.C. :

1. It is the case of the Petitioner that she tried to serve Respondent No.6, but Respondent No.6 has refused to accept the service. In view of the order to be passed, notice is dispensed with.

2. It is the case of the Petitioner that the election to Mhaswad Municipal Council were held on 20.11.2006. Respondent No.6 was elected against the open seat. It appears that thereafter the nominations were invited for filling in the post of President which was reserved for O.B.C. (woman). The Plaintiff also belongs to N.T. category. Respondent No.6 also claims to belong to O.B.C. The Petitioner annexed the

caste certificate as Exhibit A-1 because the claim of Respondent No.6 is pending for verification before Respondent No.5. The Petitioner has also appeared before Respondent No.5.

3. The learned counsel for the Petitioner seeks to rely the amendment made to Section 9-A of the Maharashtra Municipal Councils Nagar Panchayats and Industrial Townships Act, 1965 to contend that as Respondent No.6 has not produced the caste validity certificate within three months, she stands disqualified of holding the post of President. We have considered the said provision. In our opinion that rule applies to an election as a councillor and does not apply in so far as holding the post of President which would be the subject to be decided by the Committee. For the aforesaid reasons, we find no merit in the Petition. However, considering the facts and circumstances, we direct Respondent No.5 to dispose of the caste claim of Respondent No.6 within two months from today.

4. With the above observations, the Writ Petition is accordingly disposed of.

(R.M. SAVANT, J.) (F.I. REBELLO, J.)